

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANGEL MENDEZ,

Plaintiff,

9:11-CV-961

-v-

KNOBLACH, Sgt., Oneida Correctional Facility; COLLINS, Correctional Officer, Oneida Correctional Facility; MASNER, Correctional Officer, Oneida Correctional Facility; and STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SERVICES,

Defendants.

APPEARANCES:

ANGEL MENDEZ
Plaintiff Pro Se
05-A-5320
Southport Correctional Facility
Post Office Box 2000
Pine City, NY 14871

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Attorney for Defendants
The Capitol
Albany, NY 12224

DAVID N. HURD
United States District Judge

OF COUNSEL:

CHRISTOPHER W. HALL, ESQ.
Assistant Attorney General

DECISION and ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 1983. On May 8, 2012, the Honorable David R. Homer, United States Magistrate Judge, advised, by Report-

Recommendation, that defendants' motion to dismiss pursuant to Federal Rule of Civil procedure 12(b)(6) be denied as to the statute of limitations and granted as to defendant State of New York Department of Corrections and Community Services.¹ No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1).

Therefore it is

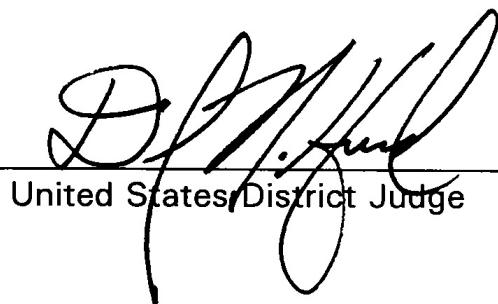
ORDERED that

1. Defendants' motion to dismiss based on the statute of limitations is DENIED; and
2. Defendants' motion to dismiss the claims against the State of New York

Department of Corrections and Community Services is GRANTED and the complaint is DISMISSED as against the State of New York Department of Corrections and Community Services.

The Clerk is directed to remove defendant the State of New York Department of Corrections and Community Services from the caption.

IT IS SO ORDERED.



United States District Judge

Dated: June 13, 2012
Utica, New York.

¹ Plaintiff concedes that the State of New York Department of Corrections and Community Services should be dismissed as a defendant.